

Applicant's Response to Examiner's 35 USC § 103(a) Rejections**Examiner Rejection**

Claims 1 – 13, 15 – 20, 39 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/733392 in view of USP 6660164 to Stover.

Applicant's Response

Applicant appreciates the time afforded by the Examiner to formulate his rejection.

Applicant respectfully presents to the Examiner that the instant application has a filing date of April 6, 1998 and an issuance (publication) date of May 25, 1999. USP 6660164 ('164) cannot be a cited reference against the instant application; as, the '164 is a § 371 of PCT/US99/26318, which has a filing date of November 8, 1999, and which is about 5 and ½ months after issuance of the instant application patent. Further, the '164 is based upon provisional application 60/071,943 ('943) and non-provisional application 09/134,557 ('557); wherein, the '943 was filed on January 20, 1998; and therefore, could not have published prior to January 20, 1999; and wherein, the '557 was filed on August 14, 1998.

Therefore, one of ordinary skill in the art could not have had either Stover '164, '943 or '557 available at the time of filing of the instant application. Further, neither the '164, nor any priority document to the '164 was filed more than one year prior to filing of the instant application for patent, which was April 6, 1998.

Examiner Rejection

Claims 1 – 13, 15-20, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5954964¹ to Nielsen in view of USP 6660164² to Stover and USP 5861100 to Nagasaki.

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Therefore, one of ordinary skill in the art could not have had either Stover '164, '943 or '557 available at the time of filing of the instant application. Further, neither the '164, nor any priority document to the '164 has a filing more than one year prior to filing of the instant application for patent, which was April 6, 1998.

Applicant also respectfully presents to the Examiner that USP 5861100 ('100) teaches a method of wastewater treatment. The abstract of the '100 states:

The method of the invention is characterized by adding comprises adding an inorganic flocculant to waste water treated with activated sludge process, adjusting the waste water between pH 4.0 and 5.0, waste water in this state for at least 1 minute, adjusting the waste water between pH 5.5 and 9.0 and adding an anionic polymer flocculant to generate flocs and separating the flocs to obtain supernatant.

Repeated again in col. 2:

Thus, the present invention provides a method of waste water treatment which comprises of adding an inorganic
15 flocculant to waste water treated with activated sludge process, adjusting the waste water between pH 4.0 and 5.0, keeping the waste water in this state for at least 1 minute, adjusting the waste water between pH 5.5 and 9.0 and adding an anionic polymer flocculant to generate flocs and
20 separating the flocs to obtain supernatant.

Applicant respectfully presents that the '100 has no teaching or suggestion as to the dewatering of any biological sludge, much less thermophilic biological sludge.

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Claims 1 – 13, 15-20, 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5954964¹ to Nielsen in view of USP 6660164² to Stover and USP 5861100 to Nagasaki.

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Applicant respectfully presents to the Examiner that, as above, the instant application has a filing date of April 6, 1998 and an issuance (publication) date of May 25, 1999. USP 6660164 ('164) cannot be a cited reference against the instant application; as, the '164 is a § 371 of PCT/US99/26318, which has a filing date of November 8, 1999, and which is about 5 and ½ months after issuance of the instant application patent. Further, the '164 is based upon provisional application 60/071,943 ('943) and non-provisional application 09/134,557 ('557); wherein, the '943 was filed on January 20, 1998; and therefore, could not have published prior to January 20, 1999; and wherein, the '557 was filed on August 14, 1998.

Therefore, one of ordinary skill in the art could not have had either Stover '164, '943 or '557 available at the time of filing of the instant application. Further, neither the '164, nor any priority document to the '164 is one year prior to filing of the instant application for patent, which was April 6, 1998.

Applicant also respectfully presents to the Examiner that USP 4043910 ('910), similar to the '100, teaches a method of wastewater treatment. The abstract of the '910 states:

[57] ABSTRACT

Phosphate is removed from an aqueous medium by adding inorganic coagulant followed by a cationic polyelectrolyte which is a water-soluble quaternary ammonium salt of a high molecular weight copolymer of acrylamide and an alkylaminoalkyl ester of acrylic or methacrylic acid. The process is of particular value in reducing the phosphate content of sewage effluent.

Repeated again in col. 3:

According to our invention we remove phosphate from an aqueous waste bulk effluent containing phosphate by precipitating soluble and colloidal phosphates in the medium by adding to the medium an inorganic coagulant, and thereafter we add to the medium certain 20 water soluble high molecular weight cationic polyelectrolyte flocculants, and then we subject the waste to a liquids-solids separation process.

Applicant respectfully presents that, similar to the '100, the '910 has no teaching or suggestion as to the dewatering of any biological sludge, much less thermophilic biological sludge.

Applicant respectfully presents 35 U.S.C. 102:

A person shall be entitled to a patent unless —

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for patent, or
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or
- (c) he has abandoned the invention, or
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States, or
- (e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or

(f) he did not himself invent the subject matter sought to be patented, or

(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Applicant Requests Claim Allowance

Applicant has respectfully traversed all of the Examiner's rejections. Applicant herein respectfully requests an allowance of claims 1 – 13, 15 – 20 and 39 as presented herein.

CONCLUSION

Applicant respectfully requests entry of this OAR, along with favorable reconsideration of the pending claims. Applicant has respectfully traversed all of the Examiner's rejections.

To facilitate the resolution of any issues or questions presented by this paper, Applicant respectfully requests that the Examiner directly contact the undersigned by phone to further discussion, reconsideration and allowance of the claims.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'R. Haase', written over a horizontal line.

Richard A. Haase, Pro Se' Applicant

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